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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO: 21091 of 2005

DATED: 06-07-2006

Between:

M.Nagaraj Chetty

..... PETITIONER

AND

1. The State Health Transport Commissioner, S.R.Nagar, Hyderabad and another

.....RESPONDENTS

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ORDER: (per RR, J)

Heard both sides, and at their request, the main writ petition itself is taken up for disposal.

The order of the tribunal, holding that since the petitioner herein belongs to superior service, he is required to retire at the age of 58 years, and in case, he seeks to continue in service till he

reaches the age of 60 years, his remedy, as a workman, is before an appropriate forum, is the subject matter of challenge in this writ petition.

Sri D.V.Sitarama Murthy, learned counsel appearing on behalf of the petitioner, would submit that the tribunal has not decided the question as to whether or not the petitioner, who according to him is a workman, is entitled to continue in service till he reaches the age of 60 years. Learned counsel submits that the appropriate forum for adjudicating this question is the administrative tribunal and that merely on the ground that the petitioner is a workman, he cannot be relegated to the remedy of invoking the jurisdiction of the Industrial Tribunal or Labour Court, under the provisions of the Industrial Disputes Act, inasmuch as Section 20 of the Administrative Tribunals Act, 1985, prescribes that a tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to the redressal of the grievance. Learned counsel would state that the remedy of approaching the tribunal is not a remedy under the service rules and as such, the tribunal ought to have adjudicated the issue on merits. We find considerable force in this submission.

Under the A.P. Public Employment (Regulation of Age of Superannuation) Act, as amended by Act 19 of 1971, every

workman is entitled to continue in service till he reaches the age of superannuation of 60 years. The question as to whether or not the petitioner herein was entitled to continue in service till he reached the age of 60 years or whether he was liable to be retired on reaching the age of superannuation of 58 years, ought to have been adjudicated by the tribunal.

We consider it appropriate, therefore, to set aside the order dated 27-04-2005 passed in O.A.No.2934 of 2001 and remand the matter to the Administrative Tribunal to adjudicate the dispute on merits.

The writ petition is accordingly allowed. However, in the circumstances without costs.

06th July, 2006

SKM